



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF  
LAND AND EMERGENCY  
MANAGEMENT

### MEMORANDUM

DATE: October 4, 2022

FROM: Clifford Villa /s/ **Clifford J. Villa**  
Senior Advisor

TO: Barry Breen  
Acting Assistant Administrator

SUBJECT: Updated Recusal Statement

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and have been advised about my ethics obligations. This memorandum updates my prior recusal statement dated September 17, 2022, to include recusal obligations regarding two additional entities – the **Columbia University School of Law and the Western Environmental Law Center.**

#### *FINANCIAL CONFLICTS OF INTEREST*

As required by the criminal financial conflict of interest law, 18 U.S.C. § 208(a), I may not participate personally and substantially in any particular matter<sup>1</sup> having a direct and predictable effect on my financial interests, or the financial interests of a person or entity whose financial interests are imputed to me, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption as outlined in 18 U.S.C. § 208(b)(2). The interests of the following persons are imputed to me: a spouse and minor child; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner, or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have been advised by OGC/Ethics that I have a financial interest in **the University of New Mexico School of Law** from which I have taken a two-year, unpaid leave of absence, until August 15, 2024. Therefore, I may not participate personally and substantially in any particular matter that, to my knowledge, has a direct and predictable effect on the financial interests of the

---

<sup>1</sup> A “particular matter” includes only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The term may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons. It does not, however, cover consideration or adoption of broad policy options directed to the interests of a large and diverse group of persons. The particular matters covered by this part include a judicial or other proceeding, application, or request for a ruling or other determination, contract, claim, controversy, charge, accusation, or arrest. See 5 C.F.R. § 2640.103(a)(1).

law school unless I first obtain a written waiver, or my participation is permitted by a regulatory exemption. One of these exemptions allows me, during the term of my leave of absence from an institution of higher learning, to participate in certain matters of general applicability, such as rulemaking, as long as the matter does not have a distinct effect on the institution other than as part of class. *See generally*, 5 C.F.R. § 2640.203(b).

I also have a financial interest in the **Columbia University School of Law** due to my agreement to teach an environmental law seminar in the academic term beginning in January 2023. This outside teaching activity was approved by OGC/Ethics on September 20, 2022. Therefore, I may not personally and substantially participate in a particular matter having a direct and predictable effect on the ability or willingness of the law school to compensate me for teaching the seminar unless I receive a waiver under 18 U.S.C. § 208(b)(1).

#### *OBLIGATIONS UNDER EXECUTIVE ORDER 13989 (Biden Ethics Pledge)*

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any matter involving specific parties in which the **Western Environmental Law Center**<sup>2</sup> is a party or represents a party because it is a “former employer.” Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service, or until **August 29, 2024**.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”<sup>3</sup> Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

#### *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

In addition, pursuant to the federal impartiality regulations, I have a “covered relationship” with the **University of New Mexico School of Law** for the period of my leave of absence and for one year thereafter. I also have a “covered relationship” with the **Columbia University School of Law** now through the duration of my teaching activity and for one year thereafter. *See* 5 C.F.R. 2635.502(a). In addition to the Ethics Pledge restriction, I have a covered relationship with the **Western Environmental Law Center**, an entity for which I

---

<sup>2</sup> For the purposes of the Executive Order, a “Former employer” is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that “former employer” does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

<sup>3</sup> *See* Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

served as a member of the Board of Directors until August 6, 2022. My recusal for this entity under the impartiality regulations ends one year from the date I last served, or until August 6, 2023. Therefore, I may not participate in a particular matter involving specific parties in which any of these entities is a party or represents a party during the period of my recusal, unless I am authorized to participate by OGC/Ethics pursuant to the standards set forth in 5 C.F.R. § 2635.502(d).

*DIRECTIVE AND CONCLUSION*

To avoid participating in matters from which I am recused, please direct them to Carlton Waterhouse, the Deputy Assistant Administrator, without my knowledge or involvement. Should this recusal have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will revise my recusal statement if my circumstances change, to include a change in my financial interests, outside personal or business relationships, or my EPA duties, and will provide a copy to you and the Ethics Office.

cc: Carlton Waterhouse, Deputy Assistant Administrator  
Justina Fugh, Director, Ethics Office